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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,177	07/31/2003	Rence M. Kovales	RSW920000128US2	9830

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MARCIA L. DOUBET LAW FIRM  
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KISSIMMEE, FL 34742

EXAMINER
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PATEL, HEMANT SHANTILAL

ART UNIT	PAPER NUMBER
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2614

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/632,177

Applicant(s)

KOVALES ET AL.

Examiner

Hemant Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,9,11,14,15,17,18,20-24,28,34,37,90 and 99-115 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,11,14,15,17,18,20-24,28,34,37,90 and 99-115 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 27, 2006 has been entered. Claims 1, 9, 11, 14-15, 17-18, 20-24, 28, 34, 37, 90, 99-115 are pending in this application.

### ***Response to Amendment***

2. Applicant's arguments with respect to claims 1, 9, 11, 14-15, 17-18, 20-24, 28, 34, 37, 90, 99-115 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any

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inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 9, 15, 17, 18, 20, 22, 28, 34, 37, 99-102, 105-109, 111-115 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel (US Patent No. 5,943,402), and further in view of Roth (US Patent No. 6,975,988 B1).

***Regarding claims 1, 99,*** Hamel teaches of creating, segmenting a voicemail message and performing various actions on each individual segment of the voicemail message using a telephone and listening to it by selecting individual segments (Figs 2A-2G, 3A-3B; col. 3, ll. 1-col. 9, ll. 18).

Hamel does not specifically teach that one of the actions performed on a voicemail segment is associating a background sound.

However, in the same field of endeavor, Roth teaches of a method for a caller to create a voicemail message; enhancing it by associating background sounds with the voicemail; and playing new or old received multi-mail messages with the background sounds (col. 6, ll. 22-56; col. 8, ll. 45-col. 9, ll. 3; col. 9, ll. 58-col. 10, ll. 48; col. 12, ll. 14-43).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel to allow the user to select an action to associate the same or different background sounds to different

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voicemail segments as taught by Roth in order "to convey an emotion associated with the message" (Roth, col. 8, ll. 53-54) by "applying a joke or gag sounds" (Roth, col. 8, ll. 59) or "including background sounds" (Roth, col. 8, ll. 60).

**Regarding claim 9,** Roth further teaches of creating and applying default audio background to messages (col. 6, ll. 6-11).

**Regarding claim 15,** Roth further teaches of setting up and using user preferences for applying background sounds by default (col. 6, ll. 4-11).

**Regarding claim 17,** Roth further teaches of storing sound effects into local storage of a user interface device i.e. telephone (col. 8, ll. 44-col. 9, ll. 1).

**Regarding claim 18,** Roth further teaches of an apparatus that stores voicemail messages as well as background sound data and offers background sounds to the caller (Fig. 1B, item 110; col. 3, ll. 50-col. 5, ll. 30).

**Regarding claim 20,** Roth further teaches of transmitting and recording audio component to be associated with a message from a telephone device (col. 6, ll. 22-56; col. 7, ll. 26-45).

**Regarding claim 22,** Roth further teaches of creating and identifying and associating background audio from a database using telephone (col. 9, ll. 58-col. 10, ll. 6).

**Regarding claim 28,** Hamel further teaches of using DTMF of a telephone keypad for segmenting the voicemail message (col. 3, ll. 1-col. 8, ll. 29). Roth further teaches of using DMTF key on telephone keypad or speaking as requested by interactive response unit to perform voicemail functions from the telephone (col. 6, ll. 22-56).

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**Regarding claim 34**, Hamel teaches of creating, and segmenting voicemail message and performing various actions including adding the user comment associated with individual segment of the voicemail message using a telephone and listening to it by selecting individual segments and inserting audio comments between individual segments at corresponding message segment bullets (Figs 2A-2G, 3A-3B; col. 3, ll. 1-col. 9, ll. 18).

Hamel does not specifically teach of associating comment by associating a selected audio file.

However, in the same field of endeavor, Roth teaches of a method for a caller to create a voicemail message; selecting an audio file from a database and associating it with the voicemail (col. 6, ll. 22-67; col. 8, ll. 45-col. 9, ll. 3; col. 9, ll. 58-col. 10, ll. 48; col. 12, ll. 14-43).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel to allow the user to create and pre-store generic comments as an audio file in a database and select it from a database to associate with the voicemail segment as taught by Roth in order to include "the user's own speech attenuated to convey an emotion associated with the message" (Roth, col. 8, ll. 53-54).

**Regarding claim 37**, Roth teaches of an audio file as caller's own speech in different forms (col. 8, ll. 49-54).

**Regarding claim 100**, it recites a system performing a method substantially similar to the method as claimed in claim 1. Hamel teaches of such

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a system (Fig. 1) and Roth teaches of a system (Fig. 1A). Refer to rejection for claim 1.

***Regarding claim 101,*** refer to rejections for claim 100 and claim 99.

***Regarding claim 102,*** refer to rejections for claim 100 and claim 9.

***Regarding claim 105,*** refer to rejections for claim 100 and claim 15.

***Regarding claim 106,*** refer to rejections for claim 100 and claim 17.

***Regarding claim 107,*** refer to rejections for claim 100 and claim 18.

***Regarding claim 108,*** refer to rejections for claim 100 and claim 20.

***Regarding claim 109,*** refer to rejections for claim 100 and claim 22.

***Regarding claim 111,*** it recites a computer program product embodied on a computer-usable medium enabling a caller to perform a method substantially similar to the method as claimed in claim 1. Hamel teaches of such a computer program product (Fig. 1, items 22, 26, 30) and Roth teaches of a computer program product (Fig. 1A, items 352, 354, 356, 358). Refer to rejection for claim 1.

***Regarding claim 112,*** refer to rejections for claim 111 and claim 99.

***Regarding claim 113,*** refer to rejections for claim 111 and claim 28.

***Regarding claim 114,*** it recites a system performing a method substantially similar to the method as claimed in claim 34. Hamel teaches of such a system (Fig. 1) and Roth teaches of a system (Fig. 1A). Refer to rejection for claim 34.

***Regarding claim 115,*** refer to rejections for claim 114 and claim 37.

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6. Claims 11, 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel modified by Roth as applied to claims 1, 100 above, and further in view of Goldberg (US Patent No. 6,125,175).

**Regarding claim 11**, Hamel modified by Roth does not teach selecting background sound based on date.

However, in the same field of endeavor, Goldberg teaches of inserting background sound based on time frame (date) (col. 4, ll. 48-49).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel modified by Roth to provide selective background sounds based on time frame as taught by Goldberg in order to enable the user to preset background music for relatives and friends birthdays.

**Regarding claim 103**, refer to rejections for claim 100 and claim 11.

7. Claims 14, 104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel modified by Roth as applied to claims 1, 100 above, and further in view of Ogawa (US Patent No. 6,634,992 B1).

**Regarding claim 14**, Hamel modified by Roth does not teach of selecting background sound randomly.

However, in the similar field of communicating, Ogawa teaches of selecting stored image data randomly (col. 30, ll. 6-8).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel modified by Roth to include



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random selection of data as taught by Ogawa so that "This gimmick, which prevents the display of the same image all the time, can help keep the exerciser interested in the exercise" (Ogawa, col. 30, ll. 8-10).

***Regarding claim 104,*** refer to rejections for claim 100 and claim 14.

8. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel modified by Roth as applied to claim 20 above, and further in view of Newton (Newton's Telecom Dictionary, 16<sup>th</sup> edition, ISBN # 1-57820-053-9).

***Regarding claim 21,*** Hamel modified by Roth does not teach of sound compression before transmitting.

However, in the same field of endeavor, Newton teaches of compression of information representation (Pg. 204).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel modified by Roth to include information (sound) compression as taught by Newton in order to save transmission time, capacity and storage space (Newton).

9. Claims 23, 24, 110 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel modified by Roth as applied to claims 1, 100 above, and further in view of Hinde (US Patent Application Publication NO. 2002/0082838 A1).

***Regarding claims 23, 24,*** Hamel modified by Roth does not teach of transmitting address from telephone device.

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However, in the same field of endeavor, Hinde teaches of sending URL address from the terminal to locate the contact data of the voice service (Paragraph 0071, 0077).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel modified by Roth to include sending URL address as taught by Hinde in order to "retrieve a first page of the voice service associated with the plant" (Hinde, Paragraph 0071).

***Regarding claim 110,*** refer to rejections for claim 100 and claim 23.

10. Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamel modified by Roth as applied to claim 20 above, and further in view of Satou (US Patent No. 5,850,431).

***Regarding claim 90,*** Hamel modified by Roth does not teach of extending call after finishing messaging.

However, in the same field of communication, Satou teaches of user finishing voice communication (col. 8, ll. 52-55, similar to finishing messaging) after instruction to send facsimile (col. 8, 27-32, similar to start sending background audio) causing the extension of call for transmission of facsimile data (col. 8, ll. 32-49), ending the call when the facsimile transmission ends (col. 8, ll. 55-58) and the user is on-hook.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Hamel modified by Roth to allow session continuation of transmission of data even after user has finished voice

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communication and has gone on-hook as taught by Satou in order to enable the user to selectively end or continue voice call after transmission (Satou, col. 8, ll. 55-58).

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hemant Patel whose telephone number is 571-272-8620. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hemant Patel  
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